IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

MACA.No. 795 of 2007(D)

O.P(MV).NO.2495/2001 OF ADDL.MOTOR ACCIDENT CLAIMS TRIBUNAL,KOTTAYAM.
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APPELLANT/PETITIONER:

IQUBAL, S/O.HASSAN BAVA,
MUTTITHARAPUTHENPARAMBIL HOUSE,VEROOR P.O.,
KOONAMTHANAM BHAGOM, CHETHIPUZHA VILLAGE,
CHANGANACHERRY TALUK.

BY ADV. SRI.MATHEW JOHN (K),
SRI.SUJESH MENON V.B.

RESPONDENTS/RESPONDENTS:
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1. **RAVI.R., S/O.RAMAYYA, H.NO.16,**
   GANDHINAGAR BHAGAM, PENNAMDOM ROAD,
   VRIDHACHALAM TALUK, KADALOOR DISTRICT,
   TAMIL NADU.

2. **M/S.GANESH BUS SERVICE NO.19,**
   ACHUTHAMANKOIL STREET,
   VRIDHACHALAM P.O., TAMIL NADU.

3. **THE NEW INDIA ASSURANCE CO. LTD.,**
   127 A, THIRUVIKA ROAD, VILLUPURAM,
   TAMIL NADU.

BY

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 07/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.A.C.A.No.795 OF 2007

Dated 7th June, 2007

JUDGMENT

Koshy,J.

Appellant/petitioner at the age of 38 met with an accident on 9.1.2001 by which his right leg was amputated. The Tribunal found that the accident occurred due to the negligence of the first respondent driver of the bus owned by the second respondent. The above bus was insured by the third respondent insurance company. However, against a claim of Rs.10,00,000/= the Tribunal awarded only Rs.4,77,200/= with interest. Only quantum of compensation is disputed in this appeal. According to the appellant, he was a Butcher and licencee of the butcher shop issued a certificate that the appellant was getting a monthly income of Rs.4,500/=. Considering the totality of circumstances, the Tribunal had taken Rs.3,000/= as the monthly income for calculating compensation. It has also come out in evidence that he sustained another injury on the left leg in 1996 and he filed O.P(MV) No.1310/96. The Tribunal awarded Rs.30,000/= for the injuries on the left leg finding that there was 11% disability. In this case, he produced Ext.A15 certificate issued by the Professor of Orthopaedics, Medical College, Trivandrum. He certified that the appellant has a permanent

disability of 45%. However, he was referred to Medical Board. Medical Board certified a total disability of 50%. Contention of the appellant is that being a butcher, his job will be affected and compensation for 100% should be awarded. We are of the opinion that cost of artificial leg was reimbursed. He can work with the artificial leg and he is not totally disabled. Compensation was granted for 50% disability. Even otherwise, considering the nature of job, his position in life and interest that can be obtained on deposit of the amount, we are of the opinion that total amount awarded by the Tribunal cannot be stated to be inadequate. Just and reasonable compensation was awarded.

The appeal is dismissed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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